

Article - Health - General

[\[Previous\]](#)[\[Next\]](#)

§21-2C-03.

(a) (1) The Board consists of the following members, who must have expertise in health care economics or clinical medicine:

- (i) One member appointed by the Governor;
- (ii) One member appointed by the President of the Senate;
- (iii) One member appointed by the Speaker of the House of Delegates;
- (iv) One member appointed by the Attorney General; and
- (v) One member appointed jointly by the President of the Senate and the Speaker of the House of Delegates, who shall serve as chair of the Board.

(2) The Board shall have the following alternate members, who must have expertise in health care economics or clinical medicine and who shall be designated by the Board chair to participate in deliberations of the Board when a member is recused:

- (i) One alternate member appointed by the Governor;
- (ii) One alternate member appointed by the President of the Senate; and
- (iii) One alternate member appointed by the Speaker of the House of Delegates.

- (3) At least one member of the Board shall have expertise in:
- (i) The 340B Program under the federal Public Health Service Act;
 - (ii) The State's all-payer model contract;
 - (iii) How the program and contract interact; and

(iv) How decisions made by the Board will affect the model and contract.

(4) A member or an alternate member may not be an employee of, a board member of, or a consultant to a manufacturer, pharmacy benefits manager, health insurance carrier, health maintenance organization, managed care organization, or wholesale distributor or related trade association.

(5) Any conflict of interest, including whether the individual has an association, including a financial or personal association, that has the potential to bias or has the appearance of biasing an individual's decision in matters related to the Board or the conduct of the Board's activities, shall be considered and disclosed when appointing members and alternate members to the Board.

(6) To the extent practicable and consistent with federal and State law, the membership of the Board shall reflect the racial, ethnic, and gender diversity of the State.

(b) (1) The term of a member or an alternate member is 5 years.

(2) The terms of the members and alternate members are staggered as required by the terms provided for members on October 1, 2019.

(c) (1) The chair shall hire an executive director and staff for the Board.

(2) The chair shall develop a 5-year budget and staffing plan and submit it to the Board for approval.

(3) Staff of the Board shall receive a salary as provided in the budget of the Board.

(d) A member of the Board:

(1) May receive compensation as a member of the Board in accordance with the State budget; and

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) (1) (i) Subject to subparagraphs (ii) and (iv) of this paragraph, the Board shall meet in open session at least four times a year.

(ii) At the chair's discretion, the chair may cancel or postpone a meeting.

(iii) The following actions by the Board shall be made in open session:

1. The study required under § 21–2C–07;
2. Deliberations on whether to subject a prescription drug product to a cost review under § 21–2C–08(d) of this subtitle;
3. Any vote on whether to impose an upper payment limit on purchases and payor reimbursements of prescription drug products in the State; and
4. Any decision by the Board.

(iv) Notwithstanding the Open Meetings Act, the Board may meet in closed session to discuss trade secrets or confidential and proprietary data and information.

(2) The Board shall provide public notice of each Board meeting at least 2 weeks in advance of the meeting.

(3) (i) Materials for each Board meeting shall be made available to the public at least 1 week in advance of the meeting.

(ii) Materials containing trade secrets or confidential and proprietary data or information that is not otherwise available to the public may not be made available to the public.

(4) The Board shall provide an opportunity for public comment at each open meeting of the Board.

(5) The Board shall provide the public with the opportunity to provide written comments on pending decisions of the Board.

(6) The Board may allow expert testimony at Board meetings, including when the Board meets in closed session.

(7) To the extent practicable, the Board shall access pricing information for prescription drug products by:

(i) Entering into a memorandum of understanding with another state to which manufacturers already report pricing information; and

(ii) Accessing other available pricing information.

(8) A majority of the members of the Board constitutes a quorum.

(9) (i) Members of the Board shall recuse themselves from decisions related to a prescription drug product if the member, or an immediate family member of the member, has received or could receive any of the following:

1. A direct financial benefit of any amount deriving from the result or finding of a study or determination by or for the Board; or

2. A financial benefit from any person that owns, manufactures, or provides prescription drug products, services, or items to be studied by the Board that in the aggregate exceeds \$5,000 per year.

(ii) For the purposes of subparagraph (i) of this paragraph, a financial benefit includes honoraria, fees, stock, the value of the member's or immediate family member's stock holdings, and any direct financial benefit deriving from the finding of a review conducted under this subtitle.

(f) In addition to the powers set forth elsewhere in this subtitle, the Board may:

(1) Adopt regulations to carry out the provisions of this subtitle; and

(2) Enter into a contract with a qualified, independent third party for any service necessary to carry out the powers and duties of the Board.

(g) Unless permission is granted by the Board, a third party hired by the Board in accordance with subsection (f)(2) of this section may not release, publish, or otherwise use any information to which the third party has access under its contract.

(h) (1) Except as provided in paragraph (2) of this subsection, any procurement for services to be performed or for supplies to be delivered to the Board is not subject to Division II of the State Finance and Procurement Article.

(2) The Board is subject to the following provisions of the State Finance and Procurement Article:

(i) Title 3A, Subtitle 3 (Information Processing), to the extent that the Secretary of Information Technology determines that an information technology project of the Board is a major information technology development project;

Units); and

- (ii) Title 12, Subtitle 4 (Policies and Procedures for Exempt

- (iii) Title 14, Subtitle 3 (Minority Business Participation).

- (i) (1) The Attorney General is the legal adviser to the Board.

- (2) The Attorney General shall designate an assistant attorney general as counsel to the Board.

- (3) As needed, the Attorney General may assign additional assistant attorneys general to the Board to give effective legal advice and counsel.

- (4) The counsel to the Board may not have a duty other than to:

- (i) Give the legal aid, advice, and counsel required by the Board;

- (ii) Supervise the other assistant attorneys general assigned to the Board, if any; and

- (iii) Perform for the Board the duties that the Attorney General assigns.

- (5) The counsel shall perform these duties subject to the control and supervision of the Attorney General.

- (6) After the Attorney General designates the counsel to the Board, the Attorney General may not reassign the counsel without consulting the Board.

[\[Previous\]](#)[\[Next\]](#)